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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,479	06/23/2003	Yan Philippe	017907-001511US	2669
20350	7590	06/03/2004	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			MEINECKE DIAZ, SUSANNA M	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/602,479

Applicant(s)

PHILIPPE ET AL.

Examiner

Susanna M. Diaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-28,31-37 and 41-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-28,31-37 and 41-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/15/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Final Office action is responsive to Applicant's amendment filed April 27, 2004.

Claims 21, 28, and 37 have been amended.

Claims 29, 30, and 38-40 have been cancelled.

Claims 41-43 have been added.

Claims 21-28, 31-37, and 41-43 are pending.

### ***Response to Arguments***

2. Applicant's arguments filed April 27, 2004 have been fully considered but they are not persuasive.

Applicant argues that "Kushmerick et al. does not suggest using wrapper to fill in forms with user related information, as recited in the claim 21 and the other claims of the present application" (page 9 of Applicant's response). However, as explained in the art rejection, the references describing the Excite shopping site do teach that Excite must inherently use some form filling method for determining which order forms to send to which vendors. Excite merely does not explicitly provide the details of how order forms are transmitted to their respective vendors. Kushmerick was cited to teach a well-known Internet-based form-filling method. In light of the combination of all of these teachings, the Examiner maintains the art rejection. In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of

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references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Furthermore, it should be noted that any information related to a user at all, including the user's identification, items selected for purchase, web sites visited, etc. are indicative of "user related information."

In conclusion, Applicant's arguments are not persuasive. The previously presented art rejection is maintained and new claims 41-43 are addressed as well.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-24, 26-28, 33-35, 37, and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Excite shopping site (which utilizes Netbot/Jango shopping agents), as disclosed in the following articles (which were provided to Applicant in the parent application):

- (A) "The Once and Future Mall"
- (B) "The Promise of Internet Megastores"
- (C) "Excite Scoops Up NetBot Shopping Agent"
- (D) "Shopping Agents Help Consumers Find the Best Deals"
- (E) "'Agents' Surf Web for Best Online Buys,"

*in view of* Kushmerick et al. (U.S. Patent No. 6,304,870).

Excite discloses a method for effecting transactions across a plurality of vendors in an internet environment, wherein a user purchases each of a plurality of items the user finds independent of the vendors, comprising:

[Claim 21] displaying the plurality of items for purchase, the plurality of items drawn from the plurality of vendors ("Agents' Surf Web for Best Online Buys": ¶ 1, 6);

receiving from the user a selection of items to purchase from the plurality of items, the selection of items comprising items from at least two vendors from the plurality of vendors ("Agents' Surf Web for Best Online Buys": ¶ 1, 6);

mapping the selection of items to purchase to a set of vendors from the plurality of vendors ("The Once and Future Mall": ¶ 10);

determining a plurality of forms corresponding to the set of vendors for the selection of items, each form in the plurality of forms comprising at least one attribute ("The Once and Future Mall": ¶ 10 -- Inherent to being able to automatically fill out forms for different vendors with the shopper's information);

filling in the plurality of forms ("The Once and Future Mall": ¶ 10);

submitting the plurality of forms to the set of vendors ("The Once and Future Mall": ¶ 10, 11);

[Claim 26] wherein providing to the user the plurality of items for purchase further comprises:

searching the internet environment for the plurality of items matching a set of user specified criterion ("Agents' Surf Web for Best Online Buys": ¶ 1, 6); and

displaying the first web page comprising the plurality of items matching the set of user specified criterion ("Agents' Surf Web for Best Online Buys": ¶ 1, 6).

Excite discloses a system for effecting transactions across a plurality of vendors in an internet environment, wherein a user purchases each of a plurality of items the user finds independent of the vendors, comprising:

[Claim 33] a client system ("Agents' Surf Web for Best Online Buys": ¶ 1, 6);

a server in communication with the client system ("Agents' Surf Web for Best Online Buys": ¶ 1, 6);

wherein the client system is configured to display to the user the plurality of items for purchase, the plurality of items drawn from the plurality of vendors ("Agents' Surf Web for Best Online Buys": ¶ 1, 6);

wherein the client system is configured to receive from the user a selection of items to purchase from the plurality of items, the selection of items comprising items from at least two vendors from the plurality of vendors ("Agents' Surf Web for Best Online Buys": ¶ 1, 6);

wherein the server is configured to map the selection of items to purchase to a set of vendors from the plurality of vendors ("The Once and Future Mall": ¶ 10);

wherein the server is configured to determine a plurality of order entry forms corresponding to the set of vendors for the selection of items, each order entry form in

the plurality of order entry forms comprising at least one attribute ("The Once and Future Mall": ¶ 10 -- Inherent to being able to automatically fill out forms for different vendors with the shopper's information);

wherein the server is configured to fill in the plurality of order entry forms ("The Once and Future Mall": ¶ 10); and

wherein the server is configured to submit the plurality of order entry forms to the set of vendors ("The Once and Future Mall": ¶ 10, 11).

As per claims 21-24, 26, 33-35, and 37, Excite does not explicitly provide the details of how order forms are transmitted to their respective vendors; however, Excite implies that such functionality is performed:

...A consumer sees only Jango's software within his Web browser; when it is time to buy, Jango automatically fills out the forms with the shopper's details, hiding the rigmarole of each store's interface. To a shopper it would seem as if different sites were as alike as the departments in a megastore.

...In a sense, NetMarket and Shopping.com are shopping agents themselves. They have no warehouses and never handle the products they sell; instead, they search for bargains, bring them to customers under a single interface, and transmit the orders back to the original source-just like Netbot. ("The Once and Future Mall": ¶ 10-11)

Therefore, Excite must inherently use some form filling method for determining which order forms to send to which vendors. Kushmerick is directed toward an Internet shopping environment in which a wrapper program is used to identify and extract product-related data from a web page (col. 2, line 43 through col. 3, line 13). The

claimed invention fills in forms by extracting relevant data using a wrapper.

Kushmerick's wrapper is disclosed as being useful for extracting data (found in a web page) that is deemed relevant to an Internet shopping transaction (e.g., description, price, and manufacturer of a product) and it provides a solution to the prior art problem of a user wasting "copious time and effort searching for appropriate on-line stores or other product information sources" (col. 1, lines 28-30). Kushmerick's wrapper extracts the type of data that is relevant to Excite's order forms (e.g., description, price, and manufacturer of a product); therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to utilize Kushmerick's wrapper to extract the data necessary to fill in Excite's order forms (e.g., description, price, and manufacturer of a product) in order to prevent a user (e.g., an Internet shopper or the Excite server) from wasting "copious time and effort searching for appropriate on-line stores or other product information sources," especially product information that is needed to submit an order form, as per claims 21 and 33. Since Excite teaches that order forms are submitted to various vendors, the Examiner submits that the Excite-Kushmerick combination yields the recited steps of filling in an order form for each respective vendor using a wrapper program each time, thereby addressing claims 22-24, 34, and 35). Furthermore, as per claims 22, 28, 41, and 42, a database is any collection of data; therefore, the recited databases including "a user database" and "a user selection database" merely signify any collection of data. For example, any data stored, albeit temporarily, that corresponds to a user's purchase (e.g., the web site at which the user is shopping) is indicative of data that might be



stored in "a user database"; similarly, stored data indicative of the user's requested item for purchase would be an aspect of "a user selection database." Again, in order for Excite to automatically fill in order forms and send them to the proper vendor(s), it must maintain some record of who the user is, what web site and corresponding vendor the user requests a purchase from, which particular item the user desires to purchase, etc., thereby indicative of the existence of the storage of data related to "a user database" and "a user selection database."

[Claims 27, 28, 43] Claims 27, 28, and 43 recite limitations already addressed by the rejection of claims 21-24, 33-35, 41, and 42 above; therefore, the same rejection applies.

5. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Excite shopping site (which utilizes Netbot/Jango shopping agents), as disclosed in the following articles (which were provided to Applicant in the parent application):

- (A) "The Once and Future Mall"
- (B) "The Promise of Internet Megastores"
- (C) "Excite Scoops Up NetBot Shopping Agent"
- (D) "Shopping Agents Help Consumers Find the Best Deals"
- (E) "'Agents' Surf Web for Best Online Buys,"

*in view of* Kushmerick et al. (U.S. Patent No. 6,304,870), as applied to claim 27 above, and *further in view of* Hartman et al. (U.S. Patent No. 5,960,411).

[Claim 31] While Excite does not explicitly disclose the claimed confirmation operation, Hartman describes an online ordering method which allows a user to view his/her order after all order fields have been filled in and before the order is officially confirmed (Figs. 1a, 1b, 1c) in order to allow the user to make any order corrections before the order is sent in. Therefore, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to pass control to the user of the Excite shopping site after filling the plurality of order entry forms, wherein the user performs a confirming operation prior to submitting the plurality of order entry forms to the set of vendors in order to ensure that all order information is accurate.

6. Claims 32 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Excite shopping site (which utilizes Netbot/Jango shopping agents), as disclosed in the following articles (which were provided to Applicant in the parent application):

- (A) "The Once and Future Mall"
- (B) "The Promise of Internet Megastores"
- (C) "Excite Scoops Up NetBot Shopping Agent"
- (D) "Shopping Agents Help Consumers Find the Best Deals"
- (E) "'Agents' Surf Web for Best Online Buys,"

*in view of* Kushmerick et al. (U.S. Patent No. 6,304,870), as applied respectively to claims 27 and 33 above, and *further in view of* the product "Reseller Business

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Center," which is sold by Ingram Micro Inc. and is disclosed in the following articles (which were provided to Applicant in the parent application):

(F) "Ingram Micro Adds Powerful Electronic Commerce Tools to Its Web Site"

(G) "A Wholesale Extranet -- A Sweeping Web-Based Project is Helping Computer Distributor Ingram Micro Redefine Its Role in the Supply Chain" (please note that the product was released as early as May 5, 1997, as per "Ingram Micro Adds Powerful Electronic Commerce Tools to Its Web Site").

[Claims 32, 36] While Excite does not explicitly disclose the claimed tracking of confirmation information, "Reseller Business Center" is a third-party reseller web site that enables real-time ordering and order status ("Ingram Micro Adds Powerful Electronic Commerce Tools to Its Web Site" -- page 1, ¶1, 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to track confirmation information returned by the set of vendors in response to submitting the plurality of order entry forms to the set of vendors as part of the Excite shopping site in order to provide the old and well-known benefit of reassurance that the user's order has been received and also to provide the user with a warning if a vendor does not have a particular item in stock.

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Excite shopping site (which utilizes Netbot/Jango shopping agents), as disclosed in the following articles (which were provided to Applicant in the parent application):

- (A) "The Once and Future Mall"
- (B) "The Promise of Internet Megastores"
- (C) "Excite Scoops Up NetBot Shopping Agent"
- (D) "Shopping Agents Help Consumers Find the Best Deals"
- (E) "Agents' Surf Web for Best Online Buys,"

*in view of* Kushmerick et al. (U.S. Patent No. 6,304,870), as applied to claim 21 above, *further in view of* Hartman et al. (U.S. Patent No. 5,960,411), as applied to claim 31 above, and even *further in view of* the product "Reseller Business Center," which is sold by Ingram Micro Inc. and is disclosed in the following articles (which were provided to Applicant in the parent application):

- (F) "Ingram Micro Adds Powerful Electronic Commerce Tools to Its Web Site"
- (G) "A Wholesale Extranet -- A Sweeping Web-Based Project is Helping Computer Distributor Ingram Micro Redefine Its Role in the Supply Chain" (please note that the product was released as early as May 5, 1997, as per "Ingram Micro Adds Powerful Electronic Commerce Tools to Its Web Site"), as applied to claim 32 above.

[Claim 25] Claim 25 recites limitations already addressed by the rejections of claims 21, 31, and 32 above; therefore, the same rejections apply.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:

**Commissioner for Patents  
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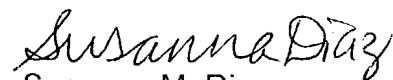
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or faxed to:

**(703)305-7687** [Official communications; including  
After Final communications labeled  
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"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7<sup>th</sup> floor receptionist.



Susanna M. Diaz  
Primary Examiner  
Art Unit 3623  
May 28, 2004